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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/085,981

02/26/2002

Samir Narendra Mehta

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MOTOROLA INC
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EXAMINER

JONES, PRENELL P

ART UNIT

PAPER NUMBER

2619

NOTIFICATION DATE

DELIVERY MODE

11/28/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DOCKETING.LIBERTYVILLE@MOTOROLA.COM
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Office Action Summary

Application No.

10/085,981

Applicant(s)

MEHTA ET AL.

Examiner

Prenell P. Jones

Art Unit

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 87-92 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 87-92 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/31/07</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments filed October 31, 2007 have been fully considered but they are not persuasive.

Applicant argues that the cited prior art of Ala-Laurilla does not constitute prior art with respect to Applicants' Application. However, Applicants' argument is not entirely valid.

The cited prior art of Ala-Laurila (USPGPUB 2003/0157926) is entitled to the International Application priority, which is March 31, 2000 per that which is stated in the MPEP. Therefore, the rejection is maintained and made final.

See MPEP 2136.03 [R-2] titled; Critical Reference Date, and Section 706.02 (f) titled; Flow Charts for 35 U.S.C. 102(e) Dates.

Applicant further argues that the primary cited prior art of Olin et al (US PG PUB 2004/0005878), which is the remaining reference, fails to teach a server accumulating transferred data amount and received data amount, in a WLAN environment, and further discloses billing in a packet data network wherein billing data is sent to an accounting server, and billing gateway/server that collects charging information for accumulation of billing charges.

Examiner disagrees with Applicant argument in light of that which is disclosed in the MPEP, wherein the secondary reference of Ala-Laurila (USPGPUB 2003/0157926) is entitled to the International Application priority, which is March 31, 2000.

Therefore, the combined teachings of Olin et al (US PG PUB 2004/0005878) and Ala-Laurila (USPGPUB 2003/0157926) as demonstrated in the previous office action, and further stated below, does teach a server accumulating transferred data amount and received data

amount, in a WLAN environment, and further discloses billing in a packet data network wherein billing data is sent to billing gateway/server that collects charging information for accumulation of billing charges.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 87-92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olin et al (US PGPUB 20040005878) in view of Ala-Laurila et al (US 20030157926).

Regarding claim 87, Olin et al (US PGPUB 20040005878) discloses packet based billing in a wireless environment wherein communication exist between wireless devices, wherein

billing is based on the amount of data transferred (paragraph 0001, 0003), wherein the amount of data transferred and the amount of data received are associated with a billing record (logged data), and billing record is executed in a central node such as a server (paragraph 0025, 0026, 0035, 0047).

Although, Olin fail to disclose server accumulating transferred data amount and received data amount, in a WLAN environment Ala-Laurila discloses billing in a packet data network wherein the billing data is sent to an accounting server and billing gateway/server collects charging information for accumulation of billing charges (paragraph 0010, 0011, 0037, 0047, 0052, 0057, 0071-0073, 0082, 0088).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to be motivated to implement at the time of the invention a server accumulating recorded transferred data amount and recorded received data amount as taught by Ala-Laurila with the teachings of Olin for the purpose of further managing packet billing data between devices/users in a wireless communication environment.

Regarding claims 88-90, as indicated above, combined Olin and Ala-Laurila, disclose communicating and managing packet based billing data in a wireless environment, wherein recording the amount of data communicated is logged/recorded in association with a server. Olin further discloses utilizing software/driver implemented on communicating wireless devices wherein encapsulation and de-capsulation is performed as associated with communicating and recording of the amount of data transferred and received in the packet billing system. Further, it is inherent to utilize coding/software/instructions to implement functions associated in a computer environment.

Regarding claim 92, as indicated above, Olin utilizes software/instructions (paragraph 0038) to implement functions associated with record amount of data transmitted, which is inherent in communicating in a computer environment. It is further inherent to present code instrumented in instructions (software/algorithm) prior to execution of instructions on a device.

4. Claim 91 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olin et al (US PG PUB 20040005878) in view of Ala-Laurila et al (US 20030157926) as applied to claim 87 above, and further in view of Saari et al (US Pat 6,338,046).

Regarding claim 91, as indicated above, combined Olin and Ala-Laurila, disclose communicating and managing packet based billing data in a wireless environment, wherein recording the amount of data communicated is logged/recorded in association with a server. Olin further discloses utilizing software/driver implemented on communicating wireless devices wherein encapsulation and de-capsulation is performed as associated with communicating and recording of the amount of data transferred and received in the packet billing system. Further, it is inherent to utilize coding/software/instructions to implement functions associated in a computer environment.

Olin and Ala-Laurila are silent on code that is written to a specification for transmission billing, as it is associated with logging amount of data transmitted.

In a communication system, Saari discloses determining charges for usage in a packet-billing environment wherein the software for transmission of billing is modeled with respect to ATM specifications (col. 7, line 28-46, col. 8, line 64 thru col. 9, line 26, col. 12, line 32-53, col. 1, line 11-21).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to be motivated to implement at the time of the invention a code that is written to a specification for transmission billing as it is associated with logging amount of data transmitted as taught by Saari with the combined teachings of Olin and Ala-Laurila for the purpose of further managing packet billing data between devices/users in a wireless communication environment.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenell P. Jones whose telephone number is 571-272-3180. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Prenell P. Jones

November 20, 2007


WING CHAN 11/21/07
SUPERVISORY PATENT EXAMINER